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Of Attorneys for Defendant Michael Felix Magana

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL FELIX MAGANA,

Defendant.

)

) **No. CR 04-192-HA**

)

) **AFFIDAVIT OF KENDRA M.**

) **MATTHEWS IN SUPPORT**

) **OF DEFENDANT MICHAEL**

) **FELIX MAGANA'S MOTION**

) **TO SET OVER HEARING DATE**

)

)

STATE OF OREGON)

)

ss.

County of Multnomah)

I, KENDRA M. MATTHEWS, being first duly sworn, hereby depose and say:

1. My partner, John S. Ransom, was appointed under the Criminal Justice Act to represent Defendant Michael Felix Magana in the above-referenced case. I make this

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DEFENDANT MICHAEL FELIX MAGANA'S MOTION TO SET OVER
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affidavit in support of his Motion to Set Over Hearing Date, being filed contemporaneously herewith.

2. On September 20, 2004, Mr. Magana appeared for sentencing following his plea of guilty to Felon in Possession of a Firearm and was sentenced to a 46-month prison term, to be followed by a 3-year term of supervised release. Mr. Magana commenced his term of supervised release on August 6, 2008. On April 28, 2011, a supervised release violation warrant was issued. A hearing on his supervised release violation has been scheduled for September 7, 2011.

3. Mr. Magana is in custody.

4. Mr. Ransom also has been appointed to represent Mr. Magana in *United States v. Michael Felix Magana*, Case No. CR 11-248-HA. Mr. Ransom has advised that it appears that the new criminal case will be resolved through a pretrial resolution. It seems likely that any such resolution would also include a resolution to alleged supervised release proceeding. As defendant has filed a motion seeking to set-over the current trial date of September 7, 2011 for ninety (90) days and, he likewise seeks to continue this matter to track with that one.

5. Mr. Ransom advises that he has discussed with Mr. Magana his rights to a hearing on the alleged supervised release violation. Mr. Magana understands those rights and has authorized the seeking of a continuance.

6. Mr. Ransom advises that Assistant United States Attorney Weinhouse does not object to a set over of the hearing date.

7. This motion is not made for purposes of delay but, rather, to ensure Mr. Magana's rights pursuant to the Sixth Amendment to the United States Constitution.

8. For each of these reasons, the undersigned requests that the Court grant Defendant Michael Felix Magana's Motion to Set over Hearing Date and set a new hearing date that tracks with the new trial date in *United States v. Michael Felix Magana*, Case No. CR 11-248-HA.

/s/ Kendra M. Matthews

KENDRA M. MATTHEWS

SUBSCRIBED AND SWORN to before me this 23rd day of August, 2011.

/s/ Patricia H. Gassner

Notary Public for Oregon

My Commission Expires: 3/3/2013

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing AFFIDAVIT OF KENDRA M. MATTHEWS IN SUPPORT OF DEFENDANT MICHAEL FELIX MAGANA'S MOTION TO SET OVER HEARING DATE on the following attorney by electronic case filing a full and correct copy thereof on the 23rd day of August, 2011.

Fredric N. Weinhouse
Assistant United States Attorney
1000 S.W. Third Avenue
Suite 600
Portland, OR 97204

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/s/ Kendra M. Matthews
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CERTIFICATE OF SERVICE

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